

ESTTA Tracking number: **ESTTA511409**

Filing date: **12/17/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Chicago Cubs Baseball Club, LLC
Granted to Date of previous extension	12/16/2012
Address	1060 West Addison Street Chicago, IL 60613 UNITED STATES
Attorney information	Aryn M. Emert Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799 UNITED STATES ame@cll.com, jmn@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	85527846	Publication date	06/19/2012
Opposition Filing Date	12/17/2012	Opposition Period Ends	12/16/2012
Applicant	Reverse The Curse, Inc 545 North Dearborn Street Chicago, IL 60654 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2011/03/27 First Use In Commerce: 2011/05/27
All goods and services in the class are opposed, namely: Online retail store services featuring or promoting commemorative products for use in charitable fundraising

Grounds for Opposition

Other	Please see attached pleading.
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Attachments	Ltr to Commissioner - REVERSE THE CURSE.pdf (1 page)(68767 bytes) Notice of Opposition - Reverse the Curse.pdf (17 pages)(654052 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Aryn M. Emert/
Name	Aryn M. Emert
Date	12/17/2012



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December 17, 2012

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Chicago Cubs Baseball Club, LLC
Notice of Opposition Against
Reverse The Curse, Inc.
Application to register REVERSE THE CURSE
Ref. No. 21307.011

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/527,846 published in the Official Gazette on June 19, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300.00 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Aryn M. Emert/
Aryn M. Emert

Enclosures

cc: Ms. Diane Kovach (w/encs.)
Mary L. Kevlin, Esq. (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/527,846
Filed: January 28, 2012
For Mark: REVERSE THE CURSE
Published in the Official Gazette: June 19, 2012

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CHICAGO CUBS BASEBALL CLUB, LLC,	:
Opposer,	:
	:
v.	:
	:
REVERSE THE CURSE, INC.,	:
Applicant.	:
	:
-----X	

Opposition No.

NOTICE OF OPPOSITION

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Chicago Cubs Baseball Club, LLC (“Opposer”), a Delaware limited liability company, with offices at 1060 West Addison Street, Chicago, Illinois 60613, believes that it will be damaged by registration of the standard character word mark REVERSE THE CURSE (“Applicant's Mark”) in International Class 35 for “online retail store services featuring or promoting commemorative products for use in charitable fundraising” as shown in Application Serial No. 85/527,846 (the “Application”), and having been granted extensions of time to oppose up to and including December 16, 2012, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned CHICAGO CUBS MAJOR LEAGUE BASEBALL club (the “Club”).

2. As one of the oldest active professional sports teams in the United States, the Club is one of the most well known sports franchises in the country's history. In addition to its baseball entertainment services, which are frequently televised, the Club is now and has long been (since well before March 27, 2011, Applicant's earliest claimed first use date), widely known in the United States for using its marks in connection with a wide variety of goods and services, including, without limitation, its charitable fundraising services. Specifically, the Club raises over \$1.5 million dollars each year for the related entity, Chicago Cubs Charities, which partners with global charitable organizations, such as World Vision, as well as local organizations to help support local charities and people in communities throughout the Chicago area. Additionally, CUBS CARE, one of the Club's charitable partnerships, has raised millions of dollars since its inception in 1991 for Chicago non-profit organizations. Further, the Club is now and has long been (since well before March 27, 2011, Applicant's earliest claimed first use date), widely known, for its retail services, including, without limitation, its online and at the ballpark retail services, as well as for its Club-branded and highly sought after merchandise, including, without limitation, apparel; jewelry; paper goods and printed matter; toys and sporting goods; and novelty items.

3. An integral part of the Club's identity involves the Club's history, and its failure to prevail in a WORLD SERIES championship for the past 104 years. The Club won its first WORLD SERIES championship in 1907 and its second - - and last, to date - - WORLD SERIES championship in 1908. The lack of WORLD SERIES championships won by the Club after 1908, and particularly after 1945 (the last year the Club participated in a WORLD SERIES championship), has become a significant part of sports lore.

4. Specifically, according to sports lore, a man by the name of William “Billy Goat” Sianis attended the fourth game of the 1945 WORLD SERIES championship played at the Club’s WRIGLEY FIELD ballpark with his pet goat “Murphy.” Mr. Sianis and his goat were ejected from the game, and in response, Mr. Sianis is said to have put a “curse” on the Club. The Club went on to lose the 1945 WORLD SERIES championship, and the Club has not participated in, let alone won, a WORLD SERIES championship competition since the incident with William “Billy Goat” Sianis and his pet goat, Murphy.

5. Due to this legend, for decades and since long prior to March 27, 2011, Applicant’s earliest claimed first use date, the image or indicia of a goat has long been associated with the Club and, moreover, the press, media, fans and public have widely referred to the Club as “cursed” or suffering under the “Curse of the Billy Goat” and have used the phrase “Reverse the Curse” to refer to their hope to put an end to this legend that is an integral part of the Club’s identity.

6. On January 28, 2012, Applicant filed the Application for Applicant’s Mark for “online retail store services featuring or promoting commemorative products for use in charitable fundraising” in Class 35, claiming a first use date of March 27, 2011, and a first use in commerce date of May 27, 2011.

7. Upon information and belief, Applicant did not use Applicant's Mark for the services covered in the Application in the United States prior to its earliest claimed first use date of March 27, 2011.

8. Upon information and belief, Applicant is located in Chicago, Illinois, where the Club and the Club’s home ballpark, WRIGLEY FIELD, are located, and Applicant has partnered

and is partnering with the charitable organization, World Vision, to raise funds for, and spread awareness in the Chicago area on behalf of World Vision.

9. Upon information and belief, Applicant operates a website at the Internet address <http://reversethecursechicago.com/> (“Applicant’s Website”), through which Applicant displays Applicant’s Mark in connection with its services, and offers for sale and sells merchandise bearing Applicant’s Mark.

10. Upon information and belief, Applicant regularly uses Applicant’s Mark with a depiction of a goat, and at times in the Club’s colors, red and blue, as depicted here:



and



in connection with Applicant’s goods and services.

11. Upon information and belief, Applicant uses and has used a goat mascot (i.e., a person dressed in a goat costume) to advertise its goods and services to fans of the Club by appearing outside of the Club’s WRIGLEY FIELD ballpark, and Applicant made and shows a video regarding the same on Applicant’s Website and at the Internet address http://www.youtube.com/watch?v=G0PflvDO1GI&feature=player_embedded. See also Exhibit A, a depiction of Applicant’s goat mascot appearing outside of the Club’s WRIGLEY FIELD ballpark.

12. Upon information and belief, Applicant's Website features a blog dedicated to the Club, as well as news articles referencing the Club and Applicant's attempts to associate itself with the Club, including, without limitation, an ESPN article dated April 2012, entitled "Cubs fans seek Karma of the Billy Goat," and a TMZ article dated April 2011, entitled "Cubs Fans -- Reversing the 66-Year-Old Goat Curse," both describing Applicant's services as a means of attempting to break the Club's "curse." See Exhibit B, a screenshot of the blog featured on Applicant's Website; see also Exhibit C, screenshots of Applicant's Website showing links to the aforementioned articles describing Applicant's services as a way for the Club to break its "curse," as well as screenshots of the aforementioned articles on ESPN's website: http://espn.go.com/blog/playbook/fandom/tag/_/name/reverse-the-curse-chicago, and TMZ's website: <http://www.tMZ.com/2011/03/31/chicago-cubs-goat-curse-world-series-detroit-tigers-billy-sianis-world-vision-charity-donation-milk-cheese-yogurt/>.

13. Upon information and belief, Applicant is aware of the "Curse of the Billy Goat" legend and the association of a goat with the Club and intends for Applicant's Mark to be associated with the Club and its identity.

14. Applicant's use of Applicant's Mark, particularly, in the Club's colors, with reference to the Club and its "curse," with a goat mascot, goat designs, and/or other goat indicia, including without limitation, the slogan "DONATE A GOAT," shows Applicant's intent to trade on, and associate itself with Opposer and its valuable goodwill.

15. Applicant uses Applicant's Mark in a partnership with the charitable organization World Vision and Opposer also partners with World Vision for charitable endeavors.

16. By virtue of the aforementioned facts, Applicant's Mark is so closely associated with the Club's identity and points uniquely to the Club, such that when Applicant's Mark is

used in connection with the applied-for services, which are highly similar to those rendered by the Club, are services for which the Club is well-known, and are services provided in partnership with one of the same charitable organizations with which the Club partners, i.e., World Vision, a connection with Opposer would be presumed.

17. Opposer would be injured by the granting of a certificate of registration to Applicant because Applicant's Mark, which is a close approximation of the Club's identity and which points uniquely to the Club, when used in connection with the applied-for services, would falsely suggest a connection between Applicant, who has no connection with or authorization from Opposer, and Opposer. Further, because, upon information and belief, Opposer and Applicant partner with the same charitable organization, World Vision, the false suggestion of a connection to the public between Opposer and Applicant would be increased and such false association, particularly in connection with charitable services, would be a detriment to the Club.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Aryn M. Emert (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

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Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
December 17, 2012

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Aryn M. Emert/

Mary L. Kevlin
Richard S. Mandel
Aryn M. Emert
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on December 17, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Eduardo Drake, Fantastic IP Consulting, 1367 Willow St., Apt 318, Minneapolis, Minnesota 55403-2580.

/Aryn M. Emert/
Aryn M. Emert

EXHIBIT A



EXHIBIT B

EXHIBIT C





